IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.49 OF 2002

Dwarikesh Trading Co. Limited .. Appellant.
V/s.
The Asstt. Commissioner of Income-tax, Circle 6(3), Mumbai & Another .. Respondents.

Mr.J.D. Mistry with Nitesh Joshi i/b. Kanga & Co. for the appellant.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 13TH SEPTEMBER, 2004.

P.C. :

Heard Mr.J.D. Mistry, the learned counsel for the appellant.

2. The Assessing Officer did not accept the change in the method of accounting of the assessee on the ground that it lacked bona fide. The Commissioner of Income Tax (Appeals), however, held otherwise. The Tribunal observed that no material was placed to suggest that the change in the method of accounting was bona fide or was based on reasonable grounds. The Tribunal also observed that the assessee claimed deduction of interest payable by it on accrual basis irrespective of actual payment and it was not open to the assessee to follow one

system for its receipts and other system for its payments. We do not find any infirmity in the approach of the Income Tax Appellate Tribunal.

3. The learned counsel for the appellant relied upon the judgment of the Gujarat High Court in the case of Commissioner of Income-tax V/s. Ganga Charity Trust Fund [162 ITR 612] and the judgment of the Calcutta High Court in the case of Snow White Food Products Co. Ltd. V/s. Commissioner of Income-tax, West Bengal-II (No.2) [141 ITR 861].

4. In the case before the Gujarat High Court, the change from mercantile system to cash system was found bona fide by the Income Tax Authorities. The Gujarat High Court decision, thus, has no application.

5. In Snow White Food Products Co. Ltd., the Division Bench of the Calcutta High Court observed that there was no specific finding that the assessee, in maintaining the change, was not acting bona fide. In the case before us there is specific finding by the Income Tax Appellate Tribunal that the change in the method of accounting effected by the assessee was not bona fide. The Calcutta High Court judgment also

has no application.

6. No substantial question of law arises in this appeal. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)